Department of Justice Canada | Ministère de la Justice Canada

FOR APPROVAL
NUMERO DU DOSSIER/FILE #: 2016-004447
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: *Canadian Victims Bill of Rights* Brochure

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- Your approval is sought to publish awareness raising resources on the *Canadian Victims Bill of Rights*, including a brochure and business card holder developed for use by police services to provide victims with information about their newly legislated rights.
- These resources were requested by the Canadian Association of Chiefs of Police in spring 2015.
- Your approval is also sought for a similar brochure to be developed for more general use by the Policy Centre for Victim Issues to raise awareness among stakeholders of the victims and survivors of crime community.
- Your approval is requested by March 16, 2016, in order to allow time to finalize the graphic design before the design contract ends this fiscal year.

Approbation de la ministre demandée pour le/Minister's approval requested by:

March 16, 2016

Soumis par (secteur)/Submitted by (Sector): Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team: Scott Nesbitt

Revue dans l'ULM par/Edited in the MLU by: Matt Ignatowicz

Soumis au CM/Submitted to MO:

Protected B
FOR APPROVAL

2016-004447

MEMORANDUM FOR THE MINISTER

Canadian Victims Bill of Rights Brochure

ISSUE

Your approval is sought in order to publish three awareness raising resources on the *Canadian Victims Bill of Rights* (CVBR), including a brochure and business card holder developed for use by police services to provide victims with information about their newly legislated rights, as well as a similar brochure developed for more general use by the Policy Centre for Victim Issues (PCVI) to raise awareness among stakeholders of the victims and survivors of crime community.

Your approval is requested by March 16, 2016, in order to allow time to finalize the graphic design before the design contract ends this fiscal year.

BACKGROUND

In spring 2015, the Canadian Association of Chiefs of Police (CACP) specifically requested to have the PCVI develop a brochure and business card holder for use by police services across Canada to provide victims with information about their rights under the CVBR. The brochure has been developed to include an overview of victims' rights under the CVBR, whereas the business card holder serves to provide a link to the CVBR website on Canada.ca where victims can find comprehensive information about their rights. The business card holder will also allow police services to insert their own card or their victim services card inside.

The CACP specifically requested to receive the brochure and business card holder in electronic template format to allow police services to personalize the resources by inputting their own contact information on the back and printing the products themselves. The electronic templates would provide locked text to ensure the CVBR information cannot be edited, but an unlocked section on the back would allow the police services to input their contact information.

In addition to the CACP resources, the PCVI has created a generic version of the brochure (i.e. one that does not include a section for police services contact information) to use to raise awareness among stakeholders of the victims and survivors of crime community about their rights. The brochure could be printed and distributed at the Victims and Survivors of Crime Week at the end of May 2016.

CONSIDERATIONS

Implementation

The CACP resources will assist police services across Canada in the implementation of the CVBR. They will serve a multi-purpose function by providing victims with information about their rights under the CVBR, providing that information in a timely manner (i.e. upon first contact with police and in the early stages of the criminal justice system), as well as providing information about the local services available to assist them. In addition, dissemination of these resources by police services across Canada will ensure nation-wide accuracy and consistency in the CVBR information provided to victims.

RECOMMENDATION

It is recommended that you approve the attached CVBR resources by March 16, 2016, in order to allow time to finalize graphic design before the end of this fiscal year when the contract with the designer ends.

ANNEXES

Annex 1: CVBR Brochure (CACP Version)
Annex 2: CACP Business Card Holder
Annex 3: CVBR Brochure (PCVI Version)

PREPARED BY
Vanessa Gallant
Policy Analyst
Policy Centre for Victim Issues
613-954-3963

☐ **I CONCUR.**

☐ **I DO NOT CONCUR.**

☐ **OTHER INSTRUCTIONS:**

_____

_____
The Honourable Jody Wilson-Raybould

_____
Date

WHAT IS THE VICTIM'S ROLE IN THE CRIMINAL JUSTICE SYSTEM?

Although a victim is not a party in criminal proceedings, they have a vital role to play in the criminal justice process and their testimony is a very important part of the Crown prosecutor's case against the accused.

LIMITATIONS

These rights must be applied in a reasonable manner so that they are not likely to interfere with investigations or prosecutions, endanger someone's life or safety, or injure national interests such as national security.

WHERE CAN I GO IF I NEED HELP UNDERSTANDING MY RIGHTS?

If you need help understanding your rights as a victim of crime, you may want to contact a victim service in your area. Victim services can provide support and resources to victims of crime. They can respond to safety concerns you may have after a crime and can also give you information about the criminal justice system.

To search for a victim service near you, use the Victim Services Directory located on the Justice Canada website at:

http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html

RESOURCES

It may also be helpful to contact your local or nearest:

ABC Victim Services:

(111-111-1111)/www.XXXXX.ca

Police Services XYZ:

(111-111-1111)/www.XXXXX.ca

courthouse, Crown prosecutor's office, community or student legal aid clinic)

You can also consult Canada.ca/victims for more information.

VICTIMS' RIGHTS IN CANADA

Your rights to information, protection, participation, and to seek restitution under the *Canadian Victims Bill of Rights*!

Who has victim rights?

The *Canadian Victims Bill of Rights* (CVBR) defines a victim as an individual who has suffered physical or emotional harm, economic loss or property damage as a result of a crime committed in Canada.

All victims may exercise their rights under the CVBR while they are in Canada. Canadian citizens or permanent residents may exercise these rights even if they are outside of Canada, as long as the crime took place in Canada.

If a victim is deceased or is unable to act on their own behalf, the following people may act on the victim's behalf:

- the victim's spouse
- an individual who had been living with the victim as their common law partner for at least one year at the time of the crime
- a relative or dependant of the victim
- anyone who has custody of the victim or of the victim's dependant.

Your Rights As a Victim of Crime

Right to information: You have the right, on request, to information about the criminal justice system and your role in it and available victim services and programs. You also have the right, on request, to specific information about the progress of the case, including information relating to the investigation, prosecution, and sentencing of the person who harmed you, and information about an accused who has been found unfit to stand trial or not criminally responsible on account of mental disorder, while that person is under the jurisdiction of a court or a Review Board.

Right to protection: You have the right to have your security and privacy considered at all stages of the criminal justice process, to have reasonable and necessary measures taken to protect you from intimidation and retaliation, to request that your identity be protected from public disclosure and to request testimonial aids when appearing as a witness.

Right to participation: You have the right to convey your views about decisions to be made by criminal justice professionals that affect your rights under the CVBR. You also have the right to present a victim impact statement to describe the effect the crime had on you and to have your statement considered.

Right to seek restitution: You have the right to have the court consider making a restitution order against the offender for specific financial losses due to the crime. You also have the right to enter an unpaid restitution order as an enforceable civil debt.

Right to make a complaint: You have the right to make a complaint if you believe your rights have been breached or denied by a federal department or agency using the complaint systems in that department or agency.

When do a victim's rights apply?

Victims have rights at all stages of the criminal process, including:

- when an offence is being investigated or prosecuted
- when the offender is subject to the corrections or conditional release process
- when the accused is subject to a court or review board's jurisdiction if he is found unfit to stand trial or not criminally responsible due to a mental disorder.

For Chiefs of Police Business Card Example

Front:

Victims' Rights in Canada

The *Canadian Victims Bill of Rights* gives victims of crime rights in four areas:

- Information
- Participation
- Protection
- Restitution

www.canada.ca/victims

Back:

Resources

Police Agency

Insert police agency name & contact information

Victim Services

Insert contact information

What is the victim's role in the criminal justice system?

Although a victim is not a party in criminal proceedings, they have a vital role to play in the criminal justice process and their testimony is a very important part of the Crown prosecutor's case against the accused.

Limitations

These rights must be applied in a reasonable manner so that they are not likely to interfere with investigations or prosecutions, endanger someone's life or safety, or injure national interests such as national security.

Where can I go if I need help understanding my rights?

If you need help understanding your rights as a victim of crime, you may want to contact a victim service in your area. Victim services can provide support and resources to victims of crime. They can respond to safety concerns you may have after a crime and can also give you information about the criminal justice system.

To search for a victim service near you, use the Victim Services Directory located on the Justice Canada website at:

http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html

Resources

It may also be helpful to contact your local or nearest:

- Police services
- Courthouse
- Crown prosecutor's office
- Community or student legal aid clinic.

You can also consult Canada.ca/victims for more information.

Victims' Rights in Canada

Your rights to information, protection, participation, and to seek restitution under the *Canadian Victims Bill of Rights*!

Who has victim rights?

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Right to information: You have the right, on request, to information about the criminal justice system and your role in it and available victim services and programs. You also have the right, on request, to specific information about the progress of the case, including information relating to the investigation, prosecution, and sentencing of the person who harmed you, and information about an accused who has been found unfit to stand trial or not criminally responsible on account of mental disorder, while that person is under the jurisdiction of a court or a Review Board.

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- when the accused is subject to a court or review board's jurisdiction if he is found unfit to stand trial or not criminally responsible due to a mental disorder.

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FOR INFORMATION
NUMERO DU DOSSIER/FILE #: 2016-006252
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: PROTECTED

TITRE/TITLE: Challenges faced by the Department of Justice regarding Shared Services Canada

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- The creation of Shared Services Canada (SSC) involved the transfer of physical, human, and financial resources from 43 separate partner organizations into a brand new department. Assuming the responsibility for a large number of existing components of IT infrastructure was an extremely complex task.

- There was considerable uncertainty during the transition to the new IT service model that complicated IT planning at the Department of Justice because the level of investment required by the Department of Justice in support of government-wide transformation projects initiated by SSC could not be accurately forecasted and because SSC was unable to provide accurate forecasts of the delivery date and the cost of new infrastructure required for projects initiated by the Department of Justice.

- The Auditor General tabled a report on February 2, 2016, that concluded that SSC "documented few agreements with partners that articulated clear and concrete service expectations, rarely provided reports to partners on service levels or the overall health of the IT infrastructure, and did not formally measure partners' satisfaction with the services they received." Without a formal service level agreement, the Department of Justice has been unable to demonstrate to SSC that it is experiencing an unacceptable level of outages to core IT services.

- SSC has adopted a new functional direction that takes effect April 1, 2016, and that allows partner-funded investments to be made in legacy infrastructure without going through an exception process.

- SSC's response to the Auditor General's recommendations combined with the money provided in the latest budget should make it possible to reduce or eliminate the challenges that the Department of Justice has experienced working with SSC.

Soumis par (secteur)/Submitted by (Sector): Management and CFO Sector

Responsable dans l'équipe du SM/Lead in the DM Team: Stéphanie Poliquin / Alexia Taschereau

Revue dans l'ULM par/Edited in the MLU by: Matt Ignatowicz

Soumis au CM/Submitted to MO:

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FOR INFORMATION

2016-006252

MEMORANDUM FOR THE MINISTER

Challenges faced by the Department of Justice regarding Shared Services Canada

ISSUE

The recent report by the Auditor General on Shared Services Canada (SSC) as well as the hearings held by Parliament when SSC tabled its Report on Plans and Priorities have led to significant media attention about difficulties that SSC has had in fulfilling its mandate to provide core IT services to government departments.

BACKGROUND

The creation of SSC involved the transfer of physical, human and financial resources from 43 partner organizations into a new department. Assuming the responsibility for a large number of existing components of IT infrastructure and was an extremely complex task and from its inception, SSC was directed to devote the majority of its efforts to achieve costs savings through the consolidation of email, networks, and data centres into enterprise level solutions.

This focus on major transformational initiatives limited the amount of support that SSC was able to provide for the legacy systems that were in existence when SSC was created. Delays in the delivery of enterprise solutions have placed an even greater strain on the legacy systems at partner organizations such as the Department of Justice. For example, the Email Transformation Initiative that involves the transition of over 100 disparate email solutions to a new shared email system for all government departments ran into major complications and migration date for the Department of Justice has been delayed by more than 15 months. This delay required the Department of Justice to make extended use of an interim solution for BlackBerry service that has been subject to several outages.

These types of challenges were highlighted in a report tabled by the Auditor General on February 2, 2016, that included the recommendation that SSC improve its reporting on transformation initiatives "to ensure that information reported to the senior management board on the status of transformation initiatives is clear and accurate." The Auditor General's report also concluded that "Shared Services Canada did not establish clear and concrete expectations for partners for maintaining service levels." With no formal service level agreement and no comprehensive service catalogue, the Department of Justice has had difficulty responding quickly to outages to core IT services and has not been able to predict whether an enhancement request in legacy infrastructure will be accepted by SSC nor when an accepted request will be delivered.

The Auditor General concluded that SSC does not have consistent practices in place "to recognize that there are partner costs involved in all transformation projects." The Department of Justice has started many initiatives in support of GC transformation projects led by SSC but it

has been very difficult to anticipate the level of resources that Justice will require in support of these projects, given absence of information and fluctuating timelines. The funding for these projects has occasionally gone unspent at fiscal year-end due to delays in SSC's transformation schedule that made it impossible for the Department of Justice to perform the work required to support the transformation initiative.

Another recommendation of the Auditor General is that "Shared Services Canada should develop an overall service strategy that articulates how it will meet the needs of partners' legacy infrastructure." At the creation of SSC, it was assumed that the funding that was transferred to their organization was sufficient to cover gradual increases in partner organizations' IT requirements, however no clear explanation was provided to explain the level of growth in legacy infrastructure that SSC would reasonably expect. As a result, requests to increase the amount of network bandwidth or storage space used by the Department of Justice have received vastly different cost estimates: in some cases the costs have been borne by SSC and in others requests were charged back to the Department of Justice but at varied rates. The uncertainty associated with this type of incremental increase has made it difficult for the Department of Justice to forecast IT expenses related to the maintenance of the existing IT environment.

CONSIDERATIONS

In their response to the Auditor General's report, SSC committed to implementing the recommendations of the Auditor General, saying that "By 31 December 2016, SSC will approve and communicate a comprehensive service strategy that sets out how it will deliver enterprise IT infrastructure services to meet the needs of Government of Canada partners and clients. The strategy will reflect SSC's overall approach to providing legacy and transformed services at defined levels, the role of partners within the strategy, how partner and client needs will be considered and addressed, and how the approach results in the best value to Canadians." The implementation of this strategy will improve the collaboration between SSC and the Department of Justice on IT planning and will allow a greater ability to achieve a level of IT service that consistently meets business needs.

SSC has adopted a new functional direction effective April 1, 2016, that simplifies partner-funded investments in legacy infrastructure. This will allow the Department of Justice to restore some of its capacity to respond quickly to changing operational priorities that was lost with the creation of SSC.

The budget announced on March 22, 2016, provides SSC $383.8 million over the next two years to support the transformation of government IT systems, data centres, and telecommunications networks and these funds should help SSC to balance the need to support partner operations in existing infrastructure with its requirement to create enterprise IT systems for the Government of Canada.

The Department of Justice made it a priority to establish a strong partnership with SSC and has been holding regular meetings at the Assistant Deputy Minister, the Director General and the manager level to ensure strategic alignment between the two organizations and to integrate their priorities into a common IT Plan. These regular meetings held with the Account Management

s.21(1)(a)
s.21(1)(b)

team at SSC have increased SSC's understanding of the specific business requirements of the Department of Justice and there is a willingness on both sides to work together to eliminate any challenges to the partnership between the two organizations, for example by improving the ability of both organizations to track the expenses associated with transformational projects and to ensure that the necessary resources are made available in the Department of Justice to support enterprise activities.

Although SSC is working to stabilize operations and infrastructure and to improve its processes, the Department of Justice will be required to fund some of SSC's contributions to IM and IT projects.

[redacted]

CONCLUSION

[redacted]

The Management and Chief Financial Officer Sector will continue to meet regularly with SSC to maintain a strong partnership between the two organizations, ensure that the SSC resources in support of the Department of Justice are deployed optimally, and monitor SCC's ability to consistently achieve their service level targets.

PREPARED BY
Marj Akerley
Chief Information Officer
Management and CFO Sector
613-941-3444

Department of Justice Canada | Ministère de la Justice Canada

CCM#: 2016-003012
Security Classification: Unclassified
Action required
Action by/Deadline: 2016/03/11

MEMORANDUM TO THE DEPUTY MINISTER

One Day Workshop for Managers: Addressing Inappropriate Behaviour in the Workplace (FOR APPROVAL)

SUMMARY

- Your approval is requested to roll out a one-day workshop for managers (EX and LC) providing tools and support to address inappropriate behaviour in the workplace.
- The Workplace Branch has identified a gap in managers training to assist them in the prevention of harassment complaints and breach of the *Department of Justice Values and Ethics Code* under "Respect for People".
- Although there are detailed policies and guidelines on how employees and managers should deal with workplace harassment complaints, the same cannot be said for dealing with inappropriate behaviour such as incivility and disrespect. When not addressed, these behaviours can lead to disengagement, absenteeism and ultimately to complaints of harassment.
- The proposed workshop will provide managers with a structured approach to address inappropriate behaviour with confidence and respect. This highly interactive workshop will allow them to discuss their challenges in acting on these behaviours and to experiment with the proposed techniques.
- The workshop will at first be delivered to managers in the NCR and in the ORO and QRO Travel cost to deliver two sessions in each of the two regions is estimated to be $ 3,000. Based on the feedback received, adjustments will be made to the sessions as needed. The plan is to offer the workshop to the other regions and the NCR following a successful delivery of the pilot. The training session will not be mandatory.
- A summary presentation of the proposed workshop is attached. (see Annex A).
- **DO YOU APPROVE?**

BACKGROUND

Since the adoption of the *Department of Justice Values and Ethics Code*, the *Framework for Respect in the Workplace* and the new Treasury Board *Harassment Prevention and Resolution Policy*, over one hundred awareness sessions on the Harassment Prevention and Resolution Policy have been delivered to employees and all management teams.

In 2014, the authority to make a determination as to whether harassment occurred based on an investigation report, was delegated to the level 2 and 3 managers. Managers have a clear responsibility under the current administrative process to address behaviour that can lead to interpersonal conflicts or harassment complaints.

In his white paper to APEX (2015) Craig Dowden pointed out: "Although there are detailed policies and guidelines on how employees and managers should deal with workplace harassment and discrimination complaints, the same cannot be said for dealing with inappropriate behaviour such as incivility and disrespect. Unfortunately, when more subtle and less "obvious" words and behaviour go unchecked, the culture of the organization is affected. Harassment complaints often ensue, sometimes along with absenteeism and disengagement".

The PSES 2014 revealed that 16% of employees felt they had been victim of some form of harassment in the previous 2 years. This would represent almost 1,000 employees in the Department of Justice who would have benefited from the intervention of a manager to address what they perceived to be inappropriate behaviour towards them.

Furthermore, in July 2015, Ms. Charette, Clerk of the Privy Council announced commitments and performance measures for all executives in support of the following one of four government-wide corporate priority: Workplace Health.

"The Public Service must show leadership in building a healthy, respectful and supportive work environment by 1) implementing measures to foster a workplace that does not tolerate harassment or discrimination and where employees are respected; and 2) undertaking other concrete actions to build and sustain a healthy workplace."

This commitment has been confirmed by the new Clerk, Mr. Wernick in his message to all public servants on January 26, 2016: "I will do everything I can to honour her service and continue her ground breaking work on mental health."

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PROPOSAL

The Workplace Branch has developed a one-day workshop complementary to the leadership training program recently offered to Ex's and LC's. This workshop is focussed on the enhancement of management and communication skills with employees. It will provide managers with the tools needed to address with respect and confidence inappropriate behaviour in a structured and informal manner. It will be offered initially in the NCR and in two regions, Ontario and Quebec. Based on feedback from these pilot sessions, the non-mandatory offering will be expanded and will include all other regions.

This initiative finds its foundation in Part 1 of the Department's *Framework for Respect in the Workplace*. It is included as an new initiative in the PSES Action Plan 2014-2017 under the Department's key commitment to provide employees with a healthy and respectful workplace. The initiative has been discussed and approved by Jodie van Dieen as the PSES Champion. Furthermore, this activity is also aligned with the Workplace Branch's priority for the year 2016-2017 in delivering activities with regard to harassment prevention and resolution.

The principal objective of this highly interactive workshop is for manager to learn to intervene calmly and confidently to address inappropriate behaviour. This intervention is a means to bring to the attention of an employee, in positive terms, a problem with their conduct and provide them with an opportunity to redress the situation and avoid further measures. It is a step prior to a verbal reprimand and more formal administrative inquiry, performance management and discipline.

The workshop will include group discussions and practice of the proposed method of intervention. It will explore in depth the reasons why interventions are so challenging, including unconscious fears and predictable defense mechanisms; and provide concrete tools to overcome them.

Other workshop objectives for the participants include the following:

- Gain an understanding of the cost of ignoring inappropriate employee behaviour
- Gain insight into some of the reasons employees behave harshly towards other
- Learn to deal with the employee's defensive reaction to their intervention
- Learn a step by step approach to better address inappropriate behaviour

The workshop will challenge managers to intervene based on the perception of employees complaining about inappropriate behaviour of others, rather than on evidence of such. This pro-active approach will allow managers a means to intervene more promptly, preventing further escalation of unhealthy situations and potential formal complaints.

.../3

RESOURCES IMPLICATIONS

Sylvie Matteau, Senior Advisor, Workplace Branch, will deliver the first eight workshops, which will be limited to the NRC (4) the ORO (2) and QRO (2). This will require traveling to the two regions. The estimated cost is approximately $ 3,000.

COMMUNICATION IMPLICATIONS

The attached document will be used to promote the workshop. It will be added to the Intranet site under the tab *Working at Justice, Harassment Prevention.* The PDD training portal will be used, as well as JustNet.

RECOMMENDATION

It is recommended that you indicate your concurrence with the delivery of a one-day pilot workshop for managers (EX and LC) on *Addressing Inappropriate Behaviour in the Workplace* (Agir devant les comportements inappropriés en milieu de travail) and its delivery in the NCR as well as the ORO and QRO, including the cost to be incurred by signing the approval block in the summary box.

NEXT STEPS

The Workplace Branch will proceed with the pilot project and adjust its workshop material and presentation based on feedback, if needed. A report to the DMO will present the results of the pilot project for information.

Attachment

Annex A – *Addressing Inappropriate Behaviour: What to Expect from this Workshop.*

Prepared by:
Sylvie Matteau, Senior Advisor, Workplace Branch (613-948-3035)
Date: 9 February 2016

Reviewed by:
Bruno Thériault, Director General Workplace Branch (613-941-2818)
Date: 10-02-2016

Approved by:
Marie-Josée Thivierge, CFO and ADM, Management Sector (613-907- 3724)
Date: 15-02-2016

Approved by: 10-03 2016
Pierre Legault, Associate Deputy Minister
Date:

CCM#: 2016-003012

ANNEX

ADDRESSING INAPPROPRIATE BEHAVIOUR IN THE WORKPLACE

What to Expect from this Workshop:

Some key concepts

Managing inappropriate behaviour is no easy task, but doing it poorly, or failing to do it altogether can have disastrous consequences for your team and you.

This one-day workshop is addressed to all managers.

It is offered to management teams, mixed teams and at retreats.

Training available to prepare for these conversations:

For information about our workshop contact the Workplace Branch, Sylvie Matteau, 613-948-3035

You know what you should do: intervene early, be specific, develop a corrective action plan; but why is it so terribly hard to do?

This tool is designed to help you with the first steps in handling behaviour that is detrimental to your team, some of your employees and the person involved.

Although there are detailed policies and guidelines on how employees and managers should deal with workplace harassment and discrimination complaints, the same cannot be said for dealing with inappropriate behaviour such as incivility and disrespect. Unfortunately, when more subtle and less "obvious" words and behaviour go unchecked, the culture of the organization is affected (Craig Dowden, 2015). Harassment complaints often ensue, sometimes along with absenteeism and disengagement. This workshop offers a proven approach as well as strategies to act quickly and directly in these situations.

The proposed intervention is an **informal and tangible** approach to address the inappropriate behaviour of an employee based on what you see and hear as a manager or what has been reported to you. It is a means of bringing to the attention of an employee, in positive terms, a conduct that is problematic to others (or potentially problematic) and provide him or her with an opportunity to redress the situation and avoid further measures. Research has shown that in most cases, the individual is not aware of the negative impact of the behaviour on others. The intervention is a step prior to a more formal approach to managing the behaviour through a performance agreement. It is also a step prior to a verbal reprimand and administrative inquiry (formal investigative and disciplinary process).

CONTINUUM OF APPROACH TO ADDRESS BEHAVIOUR:

Learning objectives

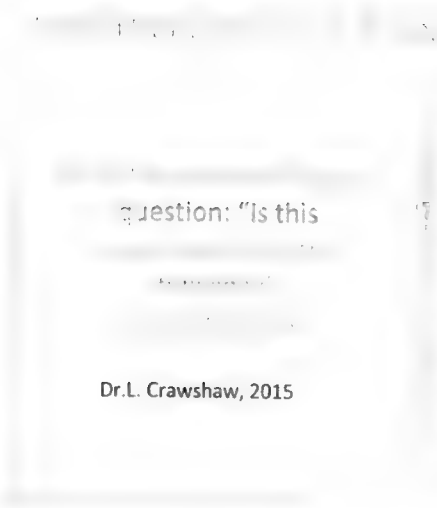
- Intervene calmly and confidently to address inappropriate behaviour
- Learn a step by step approach to better address inappropriate conduct and inappropriate behaviour
- Understand the cost of ignoring inappropriate conduct or inappropriate behaviour
- Gain insight into some of the reasons employees behave harshly towards others
- Create a foundation to manage behavioural expectations and promote respectful conduct
- Learn why interventions are so challenging, including unconscious fears and predictable defence mechanisms, and acquire concrete tools to overcome them
- Learn to deal with the employee's reaction to your intervention

In 2013, the Department of Justice adopted the *Framework for a Respectful Workplace*, which states the following important principle:

> *The Department's strength comes from all members of the organization, who are committed to working together on the basis of mutual trust, support and respect.*

Two-thirds of employees say their performance declines because of incivility, but what is startling is that 48 per cent who witnessed incivility say they were also more likely to put less effort into their own work (Craig Dowden, Leadership Consultant for APEX, 2015).

According to Dowden's research, 94 per cent of those treated uncivilly want to retaliate or "get even" with the offender, and 88 per cent see the organization as equally responsible as the individual who disrespected them and want to get even with it.

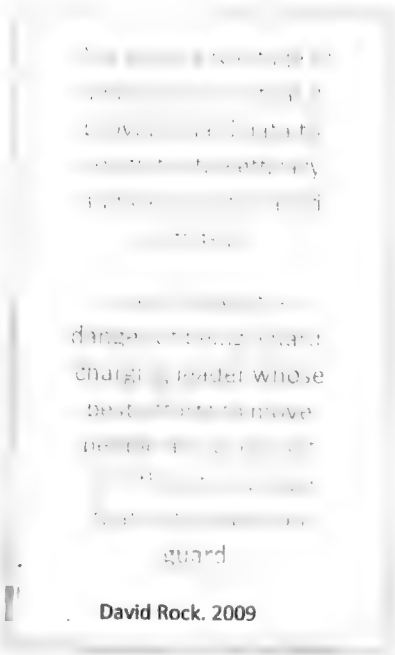


- Perceptions of weak leadership
- Perception of tacitly condoning unacceptable behaviour
- Ramping up the level of difficulty to address the situation
- Stronger reaction from the individual when confronted
- Chronic grief, including time spend managing distress of others
- Disrupted productivity, morale, motivation
- Attrition
- Contagion of the behaviour
- Human suffering of team members
- Rise in your own level of frustration and anxiety

3. UNDERSTANDING WHAT MAY CAUSE THE BEHAVIOUR: WHY THEY DO WHAT THEY DO

Research is now concluding that people who display "abrasive/disruptive behaviour" do not see what they are doing and how they are impacting their environment and ultimately their own career.

We now understand through psychology studies and neuroscience that innate and instinctive defense mechanisms can explain these behaviours. When an individual perceives a psychological threat in the workplace, this perception generates anxiety, which in turn mobilizes the individual to defend against the threat to career, quality of tasks, productivity, reputation, and ultimately employment, through the mechanisms of fight or flight.



4. ADDRESSING INAPPROPRIATE BEHAVIOUR

Understanding what may trigger this behaviour in the workplace and the reaction of the individual when we address the behaviour will be helpful.

PERCEPTIONS VS FACTS

Even when there are only perceptions reported by employees or colleagues:

The **fact is** that you don't know and cannot know exactly what happened. You weren't there.

The **fact is** that one of your employees has reported a disturbing or offensive situation, inappropriate conduct.

The **fact is** that your responsibility to act is engaged.

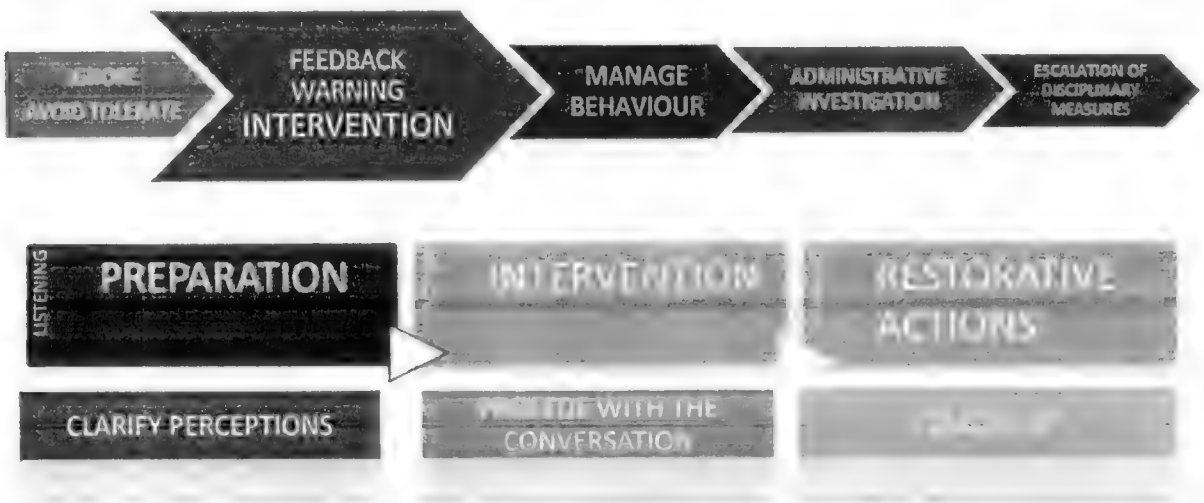
You must know one thing for a fact: coworkers perceive that they are being treated disrespectfully and these negative perceptions cannot continue.

- Acting on **perceptions**, not proven facts
- Acting on indirect **negative perceptions**; hearsay
- Maintaining anonymity of information sources
- Responding to defensiveness and denial
- Causing no harm
- Avoiding reprisals

4. HOW TO INTERVENE: PRACTICAL EXERCISES AND SCENARIOS

Very often the person may not be aware of the impact his or her words or actions have on others. We feel that it is quite appropriate to first inform the employee of the negative perceptions reported or our observations as managers that threaten team spirit and that person's reputation.

A STRUCTURED INTERVENTION:



If I don't take responsibility, who will?

As manager, I have a duty to act on my perceptions and those reported to me.

It is something I should do wherever appropriate

before recourse to other measures.

Department of Justice Canada | Ministère de la Justice Canada

CCM#: 2016-005829
Choose classification
For Information

MEMORANDUM TO THE DEPUTY MINISTER

Meeting with members of the Social Trends, Policies and Institutions Committee and Representatives of the US Office for Access to Justice on March 31, 2016

(BRIEFING NOTE FOR MEETING)

s.15(1)
s.21(1)(a)

SUMMARY

- This note is to assist you in preparing to Chair the meeting with members of the Social Trends, Policies and Institutions Committee and representatives of the Office for Access to Justice, US Department of Justice on Thursday, March 31 at 3:00 p.m. - 4:30 p.m. in EMB Room 4140. See agenda at Annex A.
- The theme of the discussion is [redacted]
- The US delegates will provide a short power point presentation.

BACKGROUND

Further to your approval to reach out to representatives of the Office for Access to Justice within the Department of Justice of the United States, Senior Assistant Deputy Minister Piragoff sent a letter of invitation to the [redacted] to visit Ottawa to discuss issues related to access to justice. She will be accompanied by [redacted] of the White House Legal Aid Interagency Roundtable (LAIR) and [redacted], both of whom you have spoken to by phone during the Legal Aid Study.

s.19(1)

For this meeting, the US delegates will provide a short presentation followed by a discussion led by you. An annotated agenda with Talking Points has been prepared for you at Annex B.

Mr. Piragoff will host the delegation from Tuesday, March 29 to Thursday, March 31, 2016 and accompany them to a series of meetings and roundtable discussions. The itinerary for the full visit is attached as Annex A.

DISCUSSION

The agenda constructed in collaboration with US officials, [redacted]

[redacted]

The theme identified for discussion at the meeting is [redacted]

As the Prime Minister stated in London last November: *Our commitment to diversity and inclusion isn't about Canadians being nice and polite—though of course we are. In fact, this commitment is a powerful and ambitious approach to making Canada, and the world, a better, and safer, place.* [redacted]

[redacted]

s.15(1)
s.19(1)
s.21(1)(a)
s.21(1)(b)

CCM#: 2016-005829

[redacted] s.21(1)(a) s.21(1)(b)

Following the initial presentation by the US delegation, [redacted] On the heels of the State visit to Washington, this meeting demonstrates a genuine desire to strengthen relations and share information and experience on an issue of mutual interest. s.69(1)(g) re (c)

RESOURCE IMPLICATIONS

N\A

COMMUNICATION IMPLICATIONS

N\A

NEXT STEPS

As the meeting with the STPI Deputy Minister community will conclude the visit of US representatives, a small gift of appreciation has been prepared and will be available for you to offer to each of our guests at the conclusion of the meeting.

Attachments (6)
Annex A – Itinerary of Visit
Annex B – Annotated Agenda/Talking Points for the March 31 meeting
Annex C – Ms. Foster: Remarks at ABA's 11th Annual Summit on Public Defense
Annex D – Ms. Foster: Remarks at May 2015 Equal Justice Conference
Annex E – Presidential Memorandum Establishing the Legal Aid Interagency Roundtable (LAIR)
Annex F – Biographies of US delegates

CCM#: 2016-005829

Prepared by:
Janet McIntyre, Deputy Director General,
IERD (613-957-4924)
Date: March 23, 2016

Reviewed by:
Stan Lipinski, Director General, Policy Sector
(613-941-2267)
Date: March 24, 2016

Approved by:
Donald K. Piragoff, Senior Assistant Deputy Minister, Policy Sector
Date: March 24, 2016

CCM#: 2016-005829

US-CANADA
Discussions on Access to Justice
Ottawa, Ontario Canada
Tuesday, March 29, 2016 – Thursday, March 31, 2016

AGENDA

Tuesday, March 29, 2016

6:00 p.m. – 7:30 p.m. **Welcome Reception**
Department of Justice Headquarters

s.15(1)
s.21(1)(a)

Wednesday, March 30, 2016

9:30 a.m. – 11:00 a.m. **Policy Committee**
Extended PC with members from the Access to Justice Working Group and the Policy Sector Working Group (Room 5140, EMB)

[redacted]

11:30 a.m. – 1:00 p.m. **Lunch**
Provided by the Department of Justice Canada

1:00 p.m. – 3:00 p.m. **Roundtable Discussion with Senior Officials from OGD***
In the Library

[redacted]

**Other Government Departments: Public Safety; Employment and Social Development; Indigenous and Northern Affairs: Veterans Affairs*

3:00 p.m. – 3:15 p.m. Health Break

3:30 p.m. – 5:00 p.m. **Roundtable on Access to Justice for Indigenous Communities**
Presentation on Tribal Courts (EMB Room 5140)
* Federal Government Support of Traditional Justice Practices
* Tribal Court Models Based on Adversarial System: legal aid considerations

7:00 **Dinner hosted by Department of Justice**

Thursday, March 31, 2016

s.15(1)
s.21(1)(a)

8:00 a.m. – 11:00 a.m. **Supreme Court of Canada Trends Conference: Evolution or Revolution (Library and Archives Canada -** 395 Wellington Street

This Conference will examine recent decisions of the country's top court as well as the Court's impact on public policy issues. It will feature a conversation with retired Supreme Court of Canada Justice **Marshall Rothstein**. Constitutional experts Professors **Dwight Newman** and **Adam Dodek** will participate in a lively debate on the continuing impact of the Charter in Canada. Deputy Minister **William F. Pentney, Q.C.**, will offer his views on the current legal policy reality. Finally, two Department of Justice expert panels will discuss the policy implications of recent Supreme Court case law.

s.19(1)

11:30 a.m. – 1:00 p.m. **Lunch at the Supreme Court of Canada**
Hosted by the [redacted]

1:00 p.m. – 3:00 p.m. [redacted]

[redacted]

3:00 p.m. – 4:30 p.m. **Meeting with the Deputy Minister**
Roundtable Discussion with the Deputy Minister Community
1. Roundtable Discussion with Deputy Minister Community
(Room 4140, EMB)

[redacted]

US Office for Access to Justice and
Members of the Deputy Committee on Social Trends, Policies and Institutions

March 31, 2016, 3:00 pm to 4:30 pm
Boardroom EMB 4140

ANNOTATED AGENDA

(Note: The theme of the meeting is [redacted]

There is no agenda for this meeting. Following the power point presentation and remarks of our special guests, please moderate the Q&A period with participants).

****

Welcome and Introductions

- Hello/welcome everyone to this special meeting involving members of Deputy Committee on Social Trends, Policies and Institutions. I am very pleased to welcome our special guests from the Office for Access to Justice in the US Department of Justice.

s.15(1)
s.21(1)(a)

- The theme of today's discussion is [redacted]

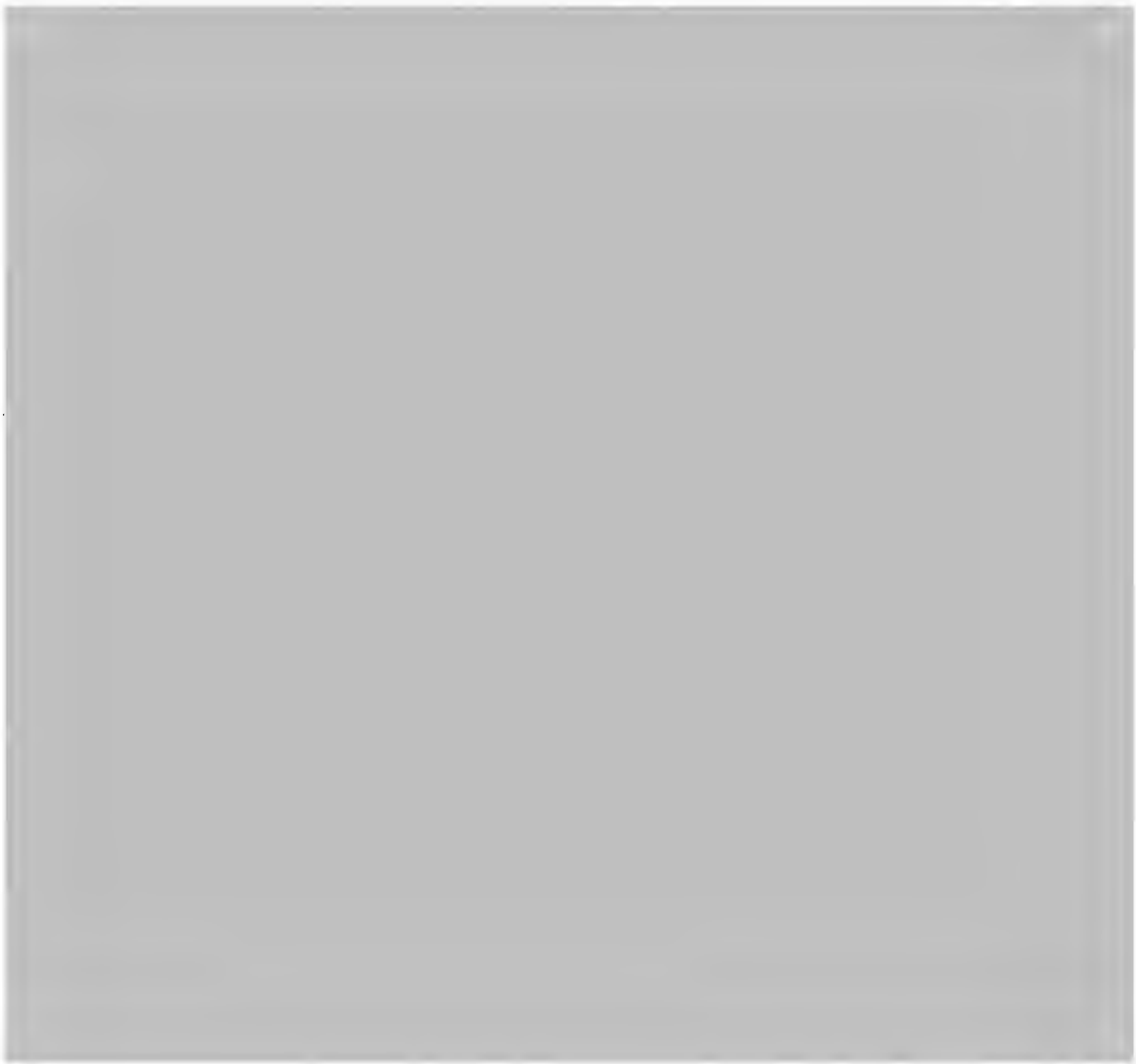
- We thought it was timely to hear from our guests in light of some very good work being done by the Office [redacted]

- The priorities of the Prime Minister and the Canadian government are ambitious. As last week's budget indicated the government is committed to being inclusive and recognizing that Canada's strength lies in its diversity.

- And the agenda it has set out seeks to help all Canadians build better lives and contribute and share in the prosperity of this country.

- Obviously, accessing justice is key to this commitment to inclusion as justice represents a cornerstone of our democracy and our society.

- I will take a moment to introduce our guests.



s.15(1)
s.21(1)(a)

s.19(1)

- Before moving on, I would like to conduct a quick roundtable of introductions, so our guests have a better idea of who we are.

- *(Following the roundtable introductions)*. Before turning over to [redacted] I'll just briefly mention a few things about the US Office for Access to Justice, which was established in 2010 to address access to justice issues in the criminal and civil justice system. Its mandate focuses on:

- Promoting accessibility by eliminating barriers that prevent people from understanding and exercising their rights;
- Ensuring fairness by delivering fair and just outcomes, including those facing financial problems; and,
- Increasing efficiency by not duplicating efforts in delivering it services.

- In a September 2015 Presidential Memorandum, it was announced that that the US Access to Justice Office would lead, through the White House Legal Aid Interagency Roundtable, the government's response to the United Nation's Sustainable Goal #16 which relates to access to justice:

  - *to promote peaceful and inclusive societies of sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.*

Presentation

(US guests will present on the work of the Office for Access to Justice)

s.19(1)

- [redacted]

s.15(1)

s.21(1)(a)

[redacted]

- 2. The Government of Canada is committed to diversity and inclusion. The Prime Minister has spoken about this at national and international fora. This is an ambitious commitment. [redacted] s.15(1) s.21(1)(a)

- 3. Another aspect that is definitely of interest to us is the whole issue of Open Government. The Canadian Government has also made a commitment to greater openness. As you know, the mandate letters of all Ministers were made public. The idea is that they will provide the yardstick by which Minister's achievements can be measured.

- And more recently, the budget emphasized the commitment to greater transparency: *The Government is wholly committed to openness and fairness. To that end, Budget 2016 will improve direct services to Canadians and create client-focused products and services that give Canadians more of the information and services they need more easily, and with fewer delays.* There is real engagement taking place with civil society as demonstrated by the pre-inquiry consultations related to Missing and Murdered Indigenous Women. [redacted]

- You may wish to wrap up the meeting with a few conclusions from the discussion.
- Adjournment / Fin de la réunion

Director Lisa Foster of the Office for Access to Justice Delivers Remarks at ABA's 11th Annual Summit on Public Defense
San Diego, United States

Saturday, February 6, 2016
Thank you, and good afternoon.

Thirteen years ago, in a courthouse just about a mile from here, I was sworn into office as a California Superior Court Judge. I became a judge because, like most of you, I believed that the law could be a force for good – for equal justice - and that the courts were the place where that aspiration was achieved. Ten years as a trial court judge – including during the worst of the great recession – cemented my belief in the former and profoundly upset my faith in the latter. Informed by my judicial experience and by what I have come to learn since joining the Justice Department 18 months ago, I now know that in far too many places in the United States, courts perpetuate and exacerbate poverty and inequality.

I'm going to talk today about how that occurs, addressing two issues – bail and fines and fees – in some depth and then touching briefly on the civil justice system – I know, not a typical topic of conversation in the defense community, but one with which, in my view, we need to contend.

Although I had been a civil litigator for my entire legal career, soon after I became a judge I found myself presiding in a criminal trial department. I didn't know much about bail. I didn't have to. The county, like all California counties, had adopted a bail schedule, and it was easy to use. Each offense was paired with a dollar amount and multiple charges were stacked. There were lots of bail bond companies close to the courthouse and the jail. Some of the defendants whose cases were assigned to me were out on bail; most – particularly those charged with felonies – were in custody. At the end of every preliminary hearing – California proceeds by preliminary hearing not by indictment in the overwhelming majority of cases – if I determined there was sufficient cause to bind a defendant over for trial, I was trained to say, "Bail review waived, counsel?" And the answer was almost always, "yes." To be perfectly honest, I didn't think much about bail, and to the best of my recollection, neither did anyone else – not my colleagues on the bench, not the prosecutors, not the public defenders.

And it seems few policy makers have thought much about bail since Congress passed the federal Bail Reform Act 50 years ago. When President Johnson signed the bill into law, he described the bail system as "archaic and cruel." "Because of the bail system," he said, "the scales of justice have been weighted not with fact nor law nor mercy. They have been weighted with money. But now we can begin to insure the defendants are considered as individuals and not as dollar signs."

Unfortunately, the Bail Reform Act was not the beginning of a movement to reform bail nationwide – it was, practically speaking, the end. Until recently, very few states adopted statutes comparable to the Bail Reform Act. To the contrary, bail, like many aspects of the criminal justice system, changed in the 1980s and 1990s in ways that policy makers only now see as deeply troubling. At the same time that police and prosecution practices and longer sentences resulted in mass incarceration, at the same time that fines and fees imposed on criminal defendants exploded – the number of people incarcerated pretrial also increased. Today, roughly 60 percent of the jail population nationally is comprised of pretrial defendants – up from 50 percent in 1996 and 40 percent in 1986.

And the overwhelming majority of those people are poor. Bail exacerbates and perpetuates poverty because of course only people who cannot afford the bail assessed or to post a bond – people who are already poor – are held in custody pretrial. As a consequence, they often lose their jobs, may lose their housing, be forced to abandon their education, and likely are unable to make their child support payments. We also know, and we have known for 50 years – that a decision to detain or release a defendant pretrial may be a critical factor affecting the outcome of a case. Most disturbingly, there, is in the words of Professor Caleb Foote who wrote an article in the University of Pennsylvania Law Review in 1965 entitled "The Coming Constitutional Crisis in Bail" "an extraordinary correlation between pretrial status and the severity of the sentence after conviction." We have known about bail's pernicious ability to undermine the principle of equal justice under law for 50 years. We have known for 50 years that, as former Attorney General Robert Kennedy said, "the rich man and the poor man do not receive equal justice in our courts." And, as I noted at the outset, there has been little done about it in the states.

But that has changed, especially recently. And that change is significant, suggesting strongly that we are reaching a tipping point on the issue of bail. The Justice Department has been actively advocating bail reform in the states for many years. The department convened the National Symposium on Pretrial Justice in 2011 and began to fund the Pretrial Justice Working Group. In 2014, the department funded Smart Pretrial grants, the first pretrial demonstration project supported by the Justice Department in 30

years. Attorney General Loretta Lynch and former Attorney General Eric Holder both have spoken out about the injustice of incarcerating the accused pretrial simply because they are poor.

Last year, the department filed a statement of interest in *Varden v. the City of Clanton*, advising the District Court that: "Fundamental and long-standing principles of equal protection squarely prohibit bail schemes based solely on the ability to pay." I am happy to report that not only did the Varden case settle shortly after our statement of interest was filed, but the brief has been cited by public defenders in individual cases and appended to cases challenging bail systems around the country, including one filed here in California late last year.

In Varden, the Justice Department sought to make the legal claim that fixed sum bail systems are unconstitutional and to advance policy arguments for why cash bail defeats the very policy objectives it purports to advance. Now some have misinterpreted the department's position in Varden, arguing that it only addresses fixed-bail systems – or bail schedules like the one used here in California. That would be a crabbed reading of the department's brief. To be sure, the facts in Varden were that the city of Clanton employed a fixed-bail schedule, and so our brief addresses that fact squarely. But the constitutional principles at work are much broader than that. As we say in the very first sentence of our brief: "[i]ncarcerating individuals solely because of their inability to pay for their release, whether through the payment of fines, fees, or a cash bond, violates the equal protection clause of the 14th Amendment." A system that results in this disparate treatment will violate the Constitution regardless of the manner in which it does so. Where there is a pre-fixed menu of bail prices, this result is inevitable. But the same constitutional violations arise in other money bail systems, including those in which judges set cash bail amounts in one case after another without due consideration of a person's ability to pay. However the system is designed or administered, if the end result is that poor people are held in jail as a result of their inability to pay while similarly situated wealthy people are able to pay for their release, the system is unconstitutional. Although it may be theoretically possible to design a money bail system that does not regularly violate the Constitution, we haven't seen it yet.

The department's efforts are not unique. In fact, each of the accomplishments I've just cited – the National Symposium, the Smart Pretrial program and the brief in Varden – depends on the work of other advocates. You will hear from some of them on this afternoon's panel, and so I will leave it to them to talk more about all of their extraordinary work to reform bail in the states – through litigation, legislation, education

and with the notable assistance of foundations like Public Welfare, Arnold and MacArthur.

Let me turn now to another way in which the justice system perpetuates and exacerbates poverty – one which truly exemplifies President Johnson's concern that defendants are treated as dollar signs: fines and fees. As most of you know, in the aftermath of the uprising in Ferguson, the Justice Department launched an investigation into the Ferguson Police Department. The report, issued by my colleagues in the Civil Rights Division, included a section on the Ferguson municipal court. Because Missouri law allowed municipalities to keep a percentage of the revenue they collect from fines and fees imposed by the city's municipal court, the police were pressured to cite people for multiple and often trivial violations of local laws. Emails produced during the investigation talked about the need to "fill the revenue pipeline" officers were instructed to take ticketing to "the next level" or risk disciplinary action. The municipal court - which is only in session one day a week – imposed fees and fines without ever inquiring about a defendants ability to pay, and then issued warrants for the arrest of people who didn't pay, resulting in thousands of people being arrested and incarcerated only because of their inability to pay these amounts.

As journalists, advocates, including many of you here today, and others have uncovered, the problem is not confined to Ferguson or to Missouri. The breadth and depth of the problem is difficult to overestimate. There are in the United States today, approximately 6,500 municipal courts operating in 34 states, although they often go by different names such as city courts, justice courts or mayor's courts. Some states have just a handful; some states, like Texas and New York have over 1,000. Generally, they are courts of limited jurisdiction – most have authority only to adjudicate traffic and municipal code violations; some also have jurisdiction over minor misdemeanors, some have full misdemeanor jurisdiction and a couple also have some felony jurisdiction – although that tends to be only for arraignment.

Many of the municipal courts are part time, and in 28 states, one does not have to be a lawyer to be a judge. Some state courts are unified – the highest state court has oversight and supervisory authority over all courts. In some states municipal courts are independent.

As you all know, because your clients contend with them every day, the problem of fines and fees is not simply a municipal court problem. As they have incarcerated more and more people, state and local jurisdictions have turned to criminal defendants to finance criminal justice, including in juvenile courts where many jurisdictions are enforcing

orders against the parents or guardians of justice-involved youth to pay court – and incarceration-related costs. Those fines and fees are assessed typically without any inquiry into a defendant's ability to pay, and when they fail to pay, they can be reincarcerated.

That same problem affects some civil proceedings as well, including most notably child support.

Last December, the department and the White House convened a two-day meeting of advocates, judges legislators, court administrators and federal officials to address the problem of, and air potential solutions to, fines and fees. I can report that most court leaders were as surprised and appalled as we were at the practices that had become routine. There are places around the country where some reforms already have been implemented, and we at the Department of Justice are committed to doing what we can to gather and disseminate best practices and encourage reform. We will soon be announcing several efforts that we hope will help local and state jurisdictions make serious and significant changes.

Finally, let me say just a brief word about the civil justice system, where, frankly more people are adversely affected by their inability to access justice than the criminal justice system, and where there is significant – consequential – overlap with the criminal system. And it is to that overlap that I want to speak. Criminal defendants often have critical civil legal needs. The average parent released from prison owes between $10,000 and $15,000 in delinquent child support. They likely owe hundreds if not thousands of dollars in criminal fines and fees – some stemming from the offense for which they were incarcerated: some from traffic violations. They may not have a valid driver's license; it was likely suspended as a result of the unpaid fines and fees or unpaid child support. Their Medicaid benefits may have been terminated while they were in prison. A parent may have lost custody of her children; she may need a domestic violence restraining order to protect her from a former girl or boy friend. And, as you all know, there is no civil right to counsel.

Most of us divide the work rigidly: defenders do criminal work; legal aid lawyers do civil work. To be sure, a handful of defender offices offer holistic services, and some organizations, like National Legal Aid & Defender Association, house both. But we are siloed – even while our clients don't distinguish between civil and criminal justice. To them, it's all one justice system, and it isn't working. We need to be talking together more and working together more. Let me give you just one example. The Department of Health and Human Services has promulgated child support enforcement rules that would

help parents in custody. The rules – as currently drafted – would require child enforcement authorities either to automatically recalculate child support for a parent the state knows to be in custody or provide a mechanism for a parent in custody to easily modify a child support order from prison. Effective enforcement of that rule will require public defenders to work with legal aid providers, who know the system, and child enforcement authorities to design forms and procedures that work. If we don't solve poor people's civil legal problems, they will never get a second chance, and we will never see an end to inequality.

I want to close with a quote from Attorney General Lynch, who though she could not be here today, spoke in December at the White House Convening on Incarceration and Poverty. Attorney General Lynch began her remarks by asking "What is the price of justice?" Here's how she ended her speech:

"What is the price of justice? Let me now point out [that] the fundamental error in the question I posed. . . is that it is a question at all. The fundamental error of the question . . . is in thinking of justice as a commodity that can be quantified rather than a right inherent to all who stand under the sheltering arm of our constitution. Because to reduce this essential ideal, this precious idea, that I know means as much to me as it does to you, to try and reduce this idea to mere coin is an effort not only doomed to fail but ultimately is an effort that cheapens us all."

Thank you.

Access to Justice

Director Lisa Foster of the Access to Justice Initiative Delivers Remarks at the Equal Justice Conference
Austin, TX United States

Thursday, May 7, 2015
Remarks as prepared for delivery

Thank you. And good morning.

The first Equal Justice Conference was held 16 years ago, in 1999. At the time, approximately 45 million people were legal aid eligible – roughly 16% of the population. By 2013, that number had grown to over 60 million – or roughly 20% of the population.

The LSC budget in 1999 was $300 million – $405.7 million in 2014 dollars. Today, the LSC budget is $375 million. IOLTA funding for legal services in 1999 was $153.4 million. In 2014, it was $73.3 million. Total funding for civil legal aid in 1999 was estimated to be approximately $1.3 billion. In 2014, total funding for civil legal aid was estimated to be….$1.3 billion dollars – a 23% decrease in real dollars from 1999.

One could argue, based on those statistics that the movement for equal justice in America has not made much progress. But those statistics are only half the story.

In 1999, there were 3 state access to justice commissions, today, there are 38. In 1999, the American Association of Law Schools created an equal justice project to explore the roles that legal education can play in confronting the "severe maldistribution of legal resources." Today, virtually every ABA-accredited law school operates a clinical law program providing legal aid to the underserved.

In 1999, the internet was new, self-help centers were rare, and we still used Latin to refer to self-represented litigants. Today, we have HotDocs, ProBono Net, Stateside Legal, the Self-Represented Litigants Network, Limited License Legal Technicians in Washington, Navigators in New York, and the Justice Corps in California.

And in 1999, although there was a Department of Justice, there was no sign on the door anywhere in the building that said this. So what does this decidedly mixed message tell us?

In a recent book entitled "The Resilience Dividend", Rockefeller Foundation President Judith Rodin, defines resilience as the capacity of an entity to prepare for disruption, recover from shock or stress and adapt and grow from disruptive experiences. Well, we and, more importantly, our clients have certainly had our share of disruptive experiences over the past 16 years.

And I would argue that despite the fact that disruption has been the defining feature of our working lives - the movement for social equality has proven itself resilient. We've lost funding – and lots of it, but our essential infrastructure remains intact, and we've

identified new sources of funding. We figured out how to do more with less by harnessing technology, and we enlarged capacity by enlisting new partners in law schools, in the bar, and in the courts.

But there is another aspect to resilience that Rodin highlights in her book. Resilience, she contends, is more than the ability to survive or even to bounce back. Resilient organizations are able to create and take advantage of new opportunities in good times and bad.

In my view, the equal justice movement today faces a historic opportunity – an opportunity that will test our resiliency. I'm going to explain this morning, why I believe we are in one of those unique moments in American history when significant change can happen and then suggest what we – all of us – need to do to bake resiliency into our organizations and make the most out of this moment in history.

There are, I believe, several social and economic forces today that have shifted the terrain of American politics so that fairness in our justice system and equal access to justice can rise to the top of the political agenda.

The first is the growing recognition of income inequality. Income inequality in the U.S., as measured by the Census Bureau, is greater today than it has been since 1928 and the divide is wider in the U.S. than in any other developed democracy in the world. To be sure, both those facts have long been true. What's different today is that everyone – and I mean everyone – is talking about it. The President has called income inequality, "the defining challenge of our time." In January, at a forum sponsored by Freedom Partners, an organization that describes itself as a chamber of commerce that promotes the benefits of free markets and a free society, Ted Cruz, Rand Paul and Marco Rubio all spoke about the problem of income inequality. Jeb Bush said that Americans are frustrated because they see only a few people riding "the economy's up escalator."

It's not just the chattering classes that are worried about income inequality and the collateral damage it can cause. Last year, the Pew Research Center conducted a survey in 54 countries about which of five dangers people considered to be the "greatest threat to the world." Many of the countries polled listed religious and ethnic hatred first. Americans chose income inequality.

The second dynamic can be summarized in a word -- and in pictures:
Ferguson. Ferguson – a city whose fiscal and judicial policies have trapped too many of its largely African-American residents in a cycle of poverty and despair.

The light that was shined on Ferguson – a light made a little brighter by the Report issued by the Justice Department's Civil Rights Division - that light has illuminated many other dark corners of our country where the practice of incarcerating people simply because they can't pay geometrically mounting fines and fees is rampant. In California, and in many other states, the Legislature has permitted and in many instances required judges to suspend or revoke a person's driver's license if they have not paid fees, fines or child

support, leading – because one has to drive to get to work to earn the money to pay off those fines and fees – to additional citations and ultimately arrest.

The extensive media coverage of these events has drawn unprecedented attention to the deep flaws in our justice system – flaws that we live with every day

The third relevant strain is criminal justice reform. In March, #cut50, a national bipartisan initiative to reduce incarceration, convened a summit on criminal justice reform. The President, former Attorney General Eric Holder, three Republican Governors and 10 members of Congress - both Republicans and Democrats – participated. Earlier this year, a remarkable coalition of the nation's most prominent conservative and progressive organizations created The Coalition for Public Safety. Through the Coalition, these organizations are working together to make our criminal justice system smarter, fairer and more cost effective.

At a speech at the National Press Club last week, Senate Judiciary Committee Chairman Grassley said: "We're seeing studies that show 32 percent of American adults have criminal records if arrest records are included. If an employer uses the database for hiring purposes, the records can be inaccurate and old. It's unfair that an arrest – not resulting in a conviction – is included in a criminal background check. And while there is a process by which people can contest their records being in the database, there are flaws in that process that need to be looked at and changed." In the same speech, Senator Grassley also called for counsel to be provided in civil asset forfeiture proceedings, the need to ensure that the states are truly meeting their constitutional obligations under Gideon, and the need to reform the juvenile justice system. Bipartisanship can happen.

Finally, the United Nations this year will for the first time consider including Access to Justice as part of its Post-2015 Sustainable Development Goals, which will succeed the original Millennium Development Goals. The United States supports that effort as does a large coalition of international organizations, countries and individuals. The inclusion of access to justice, both as an enabler of development and as a critical development objective in its own right, recognizes that legal empowerment – giving all people the power to understand and use the law to secure justice and meet basic needs is essential to economic and social stability and security. If adopted, the U.S. would report on its progress and its efforts to implement that Justice goal.

The issues of poverty and justice are on the front page of the papers, on NPR, local news broadcasts, and Jon Stewart; the direct connection between poverty and justice is part of the national dialogue; it's on the agenda in Congress. It is in the streets.

The last time we had this much attention paid to poverty and justice in America was in the late 1960's and early 1970's when the Office of Economic Opportunity was created and the Legal Services Corporation was born.

To quote Stephen Stills and Buffalo Springfield – "There's something happening here."

So, how does the movement for equal justice take advantage of this unique moment in history? Gloria Steinem once said that "a movement is only people moving." But if

moving is all we do, we risk being like an octopus on roller-skates – lots of movement and no progress.

To make progress, we need a coordinated strategy. The movement for equal justice is larger than our individual offices or programs. We need to be aware of and work in concert with all of the many organizations that try to secure justice for, and improve the lives of our clients, including the courts, community health centers, social service agencies, and state and local government.

And that's hard, because we are, truly by definition, fragmented. We are often geographically fragmented – we are legal aid of mid-Florida and Western Michigan, and southeast Louisiana.

We are fragmented by issues – protection and advocacy services, housing, domestic violence and immigration. We are fragmented by affiliation – we are LSC and non-LSC programs, we are law school clinics, pro bono programs, and court self-help centers. It's also hard because, let's face it, we are for the most part overworked - we have too much to do without trying to figure out what everyone else is doing and try to work together.

But we must. An effective strategy can't just be at the national level – although rest assured, we at ATJ, together with national organizations like NLADA, the ABA, Voices for Civil Justice and many others, are working on it. Coordination – and critical thinking - has to start at the local and state level. We need to assess our community's strengths and weaknesses and then coordinate and integrate services. We can't afford to be duplicative or competitive.

And most immediately we have to brainstorm the opportunities to connect our work to these larger social issues. That means a coordinated media strategy and lobbying effort; it means educating local and state government officials – many of whom disperse federal block grant funds aimed at low-income and vulnerable populations; it means speaking whenever possible – at Rotary Club and Chamber of Commerce meetings, at churches and community meetings – and drawing the connection between justice and poverty – and emphasizing the ways in which legal aid lawyers help. I know – some of you can't do all of those things – but many of you can – and working together, you can develop and execute a plan.

Three years ago, that's what my office – Access to Justice – did. And, parenthetically, I get to brag a little because the work was done long before I arrived. ATJ created the Legal Aid Interagency Roundtable – or LAIR – and started educating federal agencies about the role legal aid can play in achieving the agencies' program goals. We connected legal aid to housing, employment, health, veterans services, domestic violence, elder abuse and trafficking, family stability, and community safety. The result is provisions in dozens of federal grants that allow for legal services among the range of services provided. We know federal grants can come with more burdensome requirements and that new partnerships come with growing pains, but the additional funding has allowed many of you to do more in your communities to help your clients. LAIR is working

because we identify each agency's goals and demonstrate how legal aid can help to successfully advance them.

Earlier this year, in the aftermath of Ferguson and Staten Island, the President created a Task Force on 21st Century policing. ATJ submitted testimony that drew the Task Force's attention to the important work that civil legal aid does with local law enforcement and to support community safety – in domestic violence and elder abuse, with education and reentry.

We need to do the same thing locally and at the state level. We need to connect the dots beyond our traditional allies to make the case that without a vibrant and thriving civil justice system, we cannot solve the problems of poverty nor the myriad factors that contribute to poverty.

And many of you have.

In Connecticut, the VA Errera Community Care Center has partnered since 2009 with the Connecticut Veterans Legal Center integrating legal help into VA care for veterans recovering from homelessness and mental illness. CVLC connects veterans with the most challenging cases to Yale Law School's Veterans Legal Services clinic, which has also helped CVLC successfully lobby for new state laws that help veterans access treatment, avoid jail sentences, and transition into the civilian workforce.

In Oregon, the Association of Pro Bono Counsel and NLADA sent a letter supporting state legislation that authorizes cy pres awards to legal services organizations from any undistributed residue of class action settlements. The letter included a Virginia Journal of Social Policy and Law article providing the legal justification for the legislation and an ABA Resource Center for Access to Justice Initiatives' list of legislation and state court rules that provide for legal aid to receive class action cy pres awards. Less than a week later, legislation was approved by the Oregon Legislature that grants 50% of any unclaimed funds in state class actions to the Oregon Bar to support legal aid.

To build resiliency into our organizations, we can't just talk, we also have to walk. We have to do our work differently.

Here's one model – a Vet comes into a legal aid office. She's about to be evicted and has a child she wants to see. But her driver's license was suspended, and there's no bus to her ex-husband's house. The intake worker gives her an appointment to see a lawyer in the housing unit, sends her to the Court's self-help center for family law litigants, and says he can't help her with the driver's license.

Here's a different model: The legal aid office is a subgrantee under a VA Supportive Services for Veteran's Families grant. At a Veteran's Services Organization, a lawyer and a paralegal have office hours two days a week. Our Vet's case worker makes an appointment for her to meet with the legal team, and before the appointment, she finds replacement housing that the Vet can move into in two months. At her appointment, the Vet signs a settlement agreement the lawyer has already negotiated, resolving the eviction case, and allowing her to move out in two months. The paralegal helps her access

HotDocs to prepare a motion to modify custody and electronically files it with the court. Utilizing the Consumer Financial Protection Bureau's on line tool kit written especially for legal aid lawyers, Your Money. Your Goals, they also do a comprehensive evaluation of the Vets finances.

They discover that her credit report lists a small claims judgment against her that was entered by default while she was in Iraq. They then contact a pro bono lawyer through the local Bar's Veterans' program who will help get her driver's license reinstated, set aside the judgment under the Servicemembers Relief Act, and cleanup her credit report.

Here's another model – a lawyer working with health professionals as part of a Community Health Center's Medical Legal Partnership. She's trained the medical staff to identify legal issues, and in some instances, to resolve them without the lawyer ever being involved. The lawyer has written a form letter, signed by the physician, to the local utility explaining that the patient has a medical condition that will be compromised if she's without heat. The nurse practitioner can type in the name of the patient and her medical condition, print the letter, and send it off. The number of clients whose power has been restored thanks to the lawyer's relatively minimal efforts? Hundreds more than if the lawyer had to see all of those folks in an office, open a case file, etc., etc.

Both new models are great examples of thinking about where our clients are, how to collaborate with other institutions that serve them, and how to craft creative solutions to common problems so that our work can be multiplied geometrically. Both require an initial strategy that includes outreach, education and coordination with partners in the larger community.

But changing the way we talk about our work and changing the way we do our work will not be enough. We have to demonstrate that what we do and how we do it – actually works.

At this very moment, in a courtroom somewhere in America, a lawyer is telling a jury: "Ladies and Gentlemen, rely on their common sense." Well, in this room, this lawyer – and former judge – is telling you not to. Common sense solutions don't cut it today. Only evidence-based solutions do.

In his first Inaugural Address, President Obama said: "The question we ask today is not whether our government is too big or too small, but whether it works – whether it helps families find jobs at a decent wage, care they can afford, a retirement that is dignified. Where the answer is yes, we intend to move forward. Where the answer is no, programs will end."

In the federal government, that statement is now embedded in how we do business. This year, the White House Office of Management and Budget – or OMB – launched the budgeting process by telling every department that their budgets should advance "evidence-based policymaking by increasing access to administrative data, utilizing low-cost randomized trials, embedding evidence and evaluation into grant programs, and strengthening agencies' capacity to build and use evidence."

Here's how it gets translated into our work:

The Justice Department's Second Chance Act grants, to help people involved in the criminal justice system get, as the title says, "a second chance." The grants, by the way, allow for civil legal aid and in California, the court and several legal aid programs partnered -- and were awarded-- Second Chance Act grants.

Note that assessing outcomes is a DOJ priority that you shouldn't apply if you aren't committed to collecting data, and that a research partner is mandatory.

While not everyone agrees with evidence-based policy making and not everyone is happy with what the evidence in a particular case might show, data-driven decision-making is here to stay. It is embedded not only in the federal government but in the for-profit and non-profit worlds. "Where are the numbers?", "What data do we have?" "Where's the evidence to support that?" are questions every decision maker asks.

And here's an example of research, courtesy of the National Center for Medical-Legal Partnership that applies in our realm:

Between September 2011 and September 2012, Lancaster General Health in Pennsylvania conducted a pilot project that embedded lawyers within a professional care team working with super-utilizers – patients who disproportionately use emergency rooms, hospitals and other health services. When the team addressed a patient's civil legal problems, health care use and costs dropped. Both inpatient and Emergency Department use dropped upward of 50 percent, and overall costs fell by 45 percent.

That is data that proves what we do makes people's lives better – and reduces spending.

What do we do with that data? We sent it to our federal partners who work hard to improve health outcomes, urging them to deepen their commitment to MLPs. What should you do with that data - take it to your local community health center and begin a conversation about MLPs.

Here's another critical data point. Berkeley law professors Jeffrey Selbin and Justin McCrary conducted a retrospective study of clients served by the East Bay Community Law Center's Clean Slate Clinic, analyzing the impact of obtaining criminal record remedies – sealing and expungement - on their subsequent earnings. They concluded that the evidence suggests that clean slate legal intervention stems the decline in earnings and may even boost earnings. While it is too early to tell if the boost is significant and sustained, halting the decline in earnings suggests that the intervention makes a meaningful difference in people's lives and is a key component of an effective community reentry strategy.

Let me add one important point here, the purpose of research and metrics is not simply to be able to prove that what we're doing works, it's so that we know that what we're doing works. We don't have the time or the resources to waste on solutions that don't produce results.

To help us fill the dearth of data about civil legal aid, DOJ's 2016 budget submission includes a request for $2.7 million to fund civil legal aid research. That may help us get you more of the data you need to make the case that legal aid reduces poverty and improves outcomes for the millions of people who need a legal solution to their problems.

These three strategies – publicly drawing the connection between poverty and justice, thinking about new approaches to our work, and constantly testing and evaluating what we do – those will build true resiliency into our organizations and allow us to do what we all joined this movement to do – make our clients' lives better.

Just last week, we were reminded of the enormity of the problems our communities face when Baltimore exploded. And while the immediate target of the communities' wrath was law enforcement, before the crisis had ended, coverage focused on these facts: In the Baltimore neighborhoods where the rioting occurred, median income is less than $20,000, unemployment is double the city average, just 6% of adults have bachelor's degrees, and average life expectancy is 69.5 years -comparable to Iraq.

We can look at those numbers and despair or we can see them as a challenge and the fact that they were on the front page of the New York Times as an opportunity: A challenge to build a broad-based campaign for justice and an opportunity to succeed.

Thank you for what you do every day. Let's spend the next few days together making it even better.

Access to Justice

Resource: https://www.whitehouse.gov/the-press-office/2015/09/24/presidential-memorandum-establishment-white-house-legal-aid-interagency

Presidential Memorandum -- Establishment of the White House Legal Aid Interagency Roundtable

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Establishment of the White House Legal Aid Interagency Roundtable*

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to increase the availability of meaningful access to justice for individuals and families and thereby improve the outcomes of an array of Federal programs, it is hereby ordered as follows:

Section 1. Policy. This Nation was founded in part on the promise of justice for all. Equal access to justice helps individuals and families receive health services, housing, education, and employment; enhances family stability and public safety; and secures the public's faith in the American justice system. Equal access to justice also advances the missions of an array of Federal programs, particularly those designed to lift Americans out of poverty or to keep them securely in the middle class. But gaps in the availability of legal aid -- including legal representation, advice, community education, and self-help and technology tools -- for America's poor and middle class threaten to undermine the promise of justice for all and constitute a crisis worthy of action by the Federal Government.

The majority of Americans who come to court do so without legal aid. They may be left by their economic circumstances to face life-altering events -- such as losing a home or custody of children, or escaping domestic violence or elder abuse -- on their own. More than 50 million Americans qualify for federally funded civil legal aid, but over half of those who seek assistance are turned away from legal aid organizations, which lack the funds and staff to meet the demand.

When people come into contact with or leave the criminal justice system, they are likely to face a range of legal issues. A victim of abuse may need a

protective order, or a formerly incarcerated individual may need a driver's license reinstated in order to get a job. Access to legal aid can help put people on a path to self-sufficiency, lead to better outcomes in the civil and criminal justice systems, and enhance the safety and strength of our communities. Increased legal resources in a community can also help courts process cases more effectively and more efficiently, saving time and money.

Federal programs that are designed to help the most vulnerable and underserved among us may more readily achieve their goals if they include legal aid among the range of services they provide.

By encouraging Federal departments and agencies to collaborate, share best practices, and consider the impact of legal services on the success of their programs, the Federal Government can enhance access to justice in our communities.

Sec. 2. Establishment. There is established the White House Legal Aid Interagency Roundtable (LAIR).

Sec. 3. Membership. (a) The Attorney General and the Director of the Domestic Policy Council, or their designees, shall serve as the Co-Chairs of LAIR, which shall also include a representative from each of the following executive departments, agencies, and offices:

(i) the Department of State;
(ii) the Department of the Treasury;
(iii) the Department of Justice;
(iv) the Department of the Interior;
(v) the Department of Agriculture;
(vi) the Department of Labor;
(vii) the Department of Health and Human Services;
(viii) the Department of Housing and Urban Development;
(ix) the Department of Education;
(x) the Department of Veterans Affairs;
(xi) the Department of Homeland Security;
(xii) the Equal Employment Opportunity Commission;
(xiii) the Corporation for National and Community Service;
(xiv) the Office of Management and Budget;

Resource: https://www.whitehouse.gov/the-press-office/2015/09/24/presidential-memorandum-establishment-white-house-legal-aid-interagency

(xv) the United States Agency for International Development;
(xvi) the Administrative Conference of the
United States;
(xvii) the National Science Foundation; and
(xviii) such other executive departments, agencies, and offices as the Co-Chairs may, from time to time, designate.

(b) The Co-Chairs shall invite the participation of the Consumer Financial Protection Bureau, Federal Trade Commission, Legal Services Corporation, and Social Security Administration, to the extent consistent with their respective statutory authorities and legal obligations.

Sec. 4. Mission and Function. (a) The LAIR shall work across executive departments, agencies, and offices to:

(i) improve coordination among Federal programs that help the vulnerable and underserved, so that those programs are more efficient and produce better outcomes by including, where appropriate, legal services among the range of supportive services provided;
(ii) increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status;
(iii) develop policy recommendations that improve access to justice in Federal, State, local, tribal, and international jurisdictions;
(iv) assist the United States with implementation of Goal 16 of the United Nation's 2030 Agenda for Sustainable Development; and
(v) advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices to support the activities detailed in section 4(a)(i)-(iv).

(b) The LAIR shall report annually to the President on its success in achieving its mission, consistent with the United Nation's 2030 Agenda for Sustainable Development. The report shall include data from participating members on the deployment of Federal resources that foster LAIR's mission.

Sec. 5. Administration. (a) The LAIR shall hold meetings at least three times a year and engage with Federal, State, local, tribal, and international officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

Resource: https://www.whitehouse.gov/the-press-office/2015/09/24/presidential-memorandum-establishment-white-house-legal-aid-interagency

(b) The Director of the Office for Access to Justice in the Department of Justice, or his or her designee, shall serve as Executive Director of LAIR and shall, as directed by the Co-Chairs, convene regular meetings of LAIR and supervise its work. The Office for Access to Justice staff shall serve as the staff of LAIR.
(c) The Department of Justice shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for LAIR to carry out its mission.
(d) The LAIR members are encouraged to provide support, including by detailing personnel, to LAIR.
(e) Members of LAIR shall serve without any additional compensation for their work.

Sec. 6. General Provisions. (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

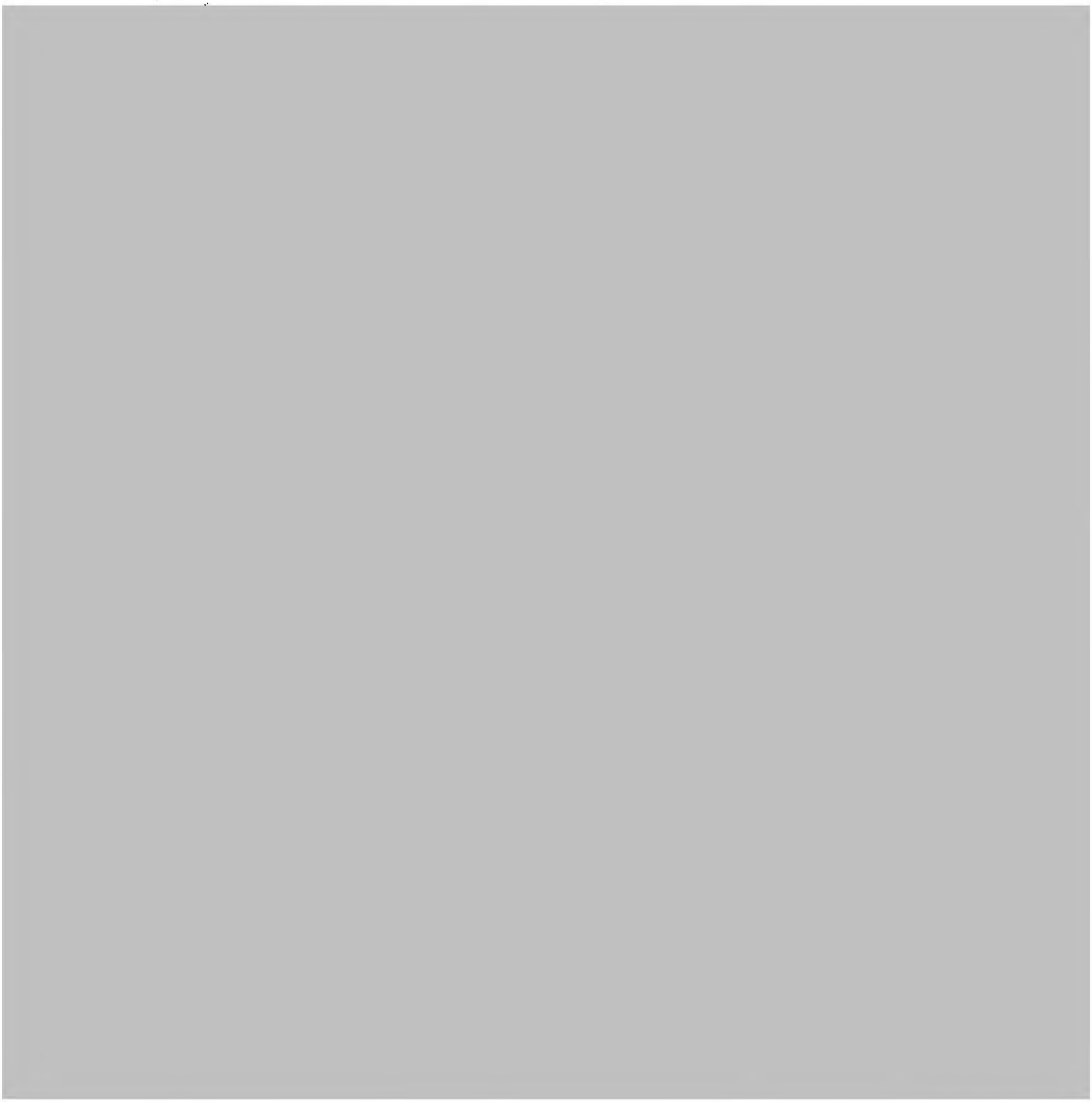
BARACK OBAMA

US - Canada Visit on Access to Justice

s.15(1)
s.19(1)

March 29, 2016 – March 31, 2016

US Delegation representing the US Department of Justice



s.15(1)
s.19(1)

Visite États-Unis - Canada sur l'accès à la justice

Du 29 au 31 mars 2016

Délégation américaine représentant le Département de la Justice des États-Unis

[redacted]